



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ANTHONY A. WHITEHURST,
Plaintiff,

v.

SHOWTIME NETWORKS, INC.,
Defendant.

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CIVIL ACTION NO: 1:08-CV-47

**MEMORANDUM ORDER ADOPTING REPORT AND RECOMMENDATION
AND GRANTING MOTION TO DISMISS**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the Eastern District of Texas, the Court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for determination of pre-trial matters and entry of findings of fact and recommended disposition on dispositive matters. The defendant's motion to dismiss is pending before the Court.

Judge Giblin entered a *Report and Recommendation* on the motion to dismiss on August 28, 2009. He entered findings and recommended that the Court grant the defendant's motion to dismiss and dismiss the plaintiff's claims for failure to state a claim.

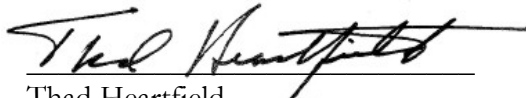
The parties have not filed objections to the magistrate judge's report. In accordance with 28 U.S.C. § 636(b)(1), the Court reviewed the magistrate judge's findings and the applicable law in this proceeding. After review, the Court finds that Judge Giblin's findings and recommendations should be accepted.

Accordingly, the *Report and Recommendation on Motion to Dismiss* [Clerk's doc. #26] is **ADOPTED** by the Court. The factual findings and legal conclusions of the magistrate judge are therefore fully incorporated by the undersigned in support of this order.

The Court **ORDERS** that defendant Showtime Networks, Inc.'s motion to dismiss [Clerk's doc. #15] is **GRANTED** pursuant to Federal Rule of Civil Procedure 12(b)(6). It is further **ORDERED** that the plaintiff Anthony A. Whitehurst's claims against defendant, Showtime Networks, Inc. are **DISMISSED** with prejudice.

The Court finally directs the Clerk of Court to **CLOSE** this civil action as plaintiff's claim are dismissed in their entirety. All motions not addressed herein are **DENIED** as **MOOT**.

SIGNED this the **22** day of **September, 2009**.


Thad Heartfield
United States District Judge